

§ 136-19.7. Residue property disposal; Department authority; definitions; classification and valuation; disposition method; proceeds; approvals required.

(a) State Policy. – It is the policy of the State that the Department of Transportation shall dispose of its residue real property as expeditiously as possible for the benefit of the citizens and taxpayers of the State.

(b) Department Authority to Dispose of Residue Property. – The Department, in accordance with this section, is vested with the power to manage, control, and dispose of real property acquired in fee simple and that the Department determines to be residue property.

(c) Definitions. – When used in this section, the following definitions apply:

- (1) Appraised value. – The value of residue property determined by an appropriate area appraiser or appraiser using Department appraisal methodology.
- (2) Appraiser. – An appraiser licensed or certified by the North Carolina Appraisal Board and approved by the Department to accomplish Department appraisals.
- (3) Area appraiser. – A Department supervising staff appraiser currently associated with a Department area appraisal office.
- (4) Current market value. – The value of property determined by the Department, in the absence of an appraised value, when obtaining an appraisal is not feasible as determined by the Department. This value shall be determined by the appropriate Division Right-of-Way agent and Right-of-Way Unit manager. The Department shall document a determination of current market value by means other than determining an appraised value.
- (5) Negotiated sale. – Method of sale involving discussion and agreement of sale terms with a single or limited group of purchasers. This method may be undertaken by the Department or the Department may delegate a negotiated sale of residue property to real estate brokers licensed in this State, at the election of the Chief Engineer.
- (6) Public sale. – Method of disposing of residue property utilizing advertising and solicitation of competitive bids. This method may be undertaken by the Department or the Department may delegate a public sale to a real estate broker, auctioneer, or auction firm licensed in this State, at the election of the Chief Engineer.
- (7) Residue property. – Real property that is owned in fee simple by the Department that was acquired by the Department in addition to the property necessary for a transportation project because it would have been an uneconomic remnant to the prior owner following completion of that transportation project.
- (8) Residue property value. – The Department approved value of the residue property established by either the current market value or appraised value method.
- (9) Uneconomic remnant. – Real property, that was located outside of a proposed right-of-way prior to acquisition, determined to have nominal or no value to the owner after a Department acquisition pursuant to G.S. 136-19.
- (10) Upset bid. – At a public sale, an increased bid by a person that exceeds the highest bid received in response to the notice of public sale, or the last upset bid, as applicable, by a minimum of five percent (5%).

(d) Classification of Residue Property. – The Department shall adopt criteria to guide the Department in classifying residue property, in its opinion, according to its highest potential

benefit to the Department or potential purchasers. Once classified, residue property that has not been disposed of within five years shall be reviewed and reclassified if appropriate. [Classification is as follows:]

- (1) Residue property of sufficient size and access to allow commercial or residential development shall be designated "Class A."
- (2) Residue property that enhances the value of adjacent property by allowing more extensive use when joined with adjacent property shall be designated "Class B."
- (3) Residue property that, due to size or access, is only of value to adjacent property owners, or that is of minimal or no value, shall be designated "Class C."
- (4) Residue property that has not yet been classified or may be needed by the Department for future use shall be designated "Class D."

(e) Residue Property Inventory. – The Department shall create and maintain a single comprehensive and up-to-date inventory of residue property owned in fee simple by the Department.

(f) Methods of Disposition Based on Class of Residue Property. – The Department shall utilize its best efforts to dispose of Class A, Class B, and Class C residue property within four years of its classification and in accordance with the following methods:

- (1) Public sale. – The sale of Class A residue property shall be disposed of by public sale and may be sold by either sealed bid or by auction at the election of the Right-of-Way Branch of the Department. The sale of the property must be advertised by at least two of the following methods:
 - a. Publication once a week for at least two successive weeks in a newspaper qualified for legal advertising published in the area in which the residue property is located or, if no newspaper qualified for legal advertising is published in the area, in a newspaper having general circulation in the area in which the residue property is located.
 - b. Placement on the Department Web site.
 - c. Placement of a "For Sale" sign on the residue property.Upset bids must be received within 10 business days following the deadline for receipt of sealed bids or closing of an auction. The highest bid shall be presented to the Board of Transportation at its next regular meeting after the deadline for receipt of bids for rejection or acceptance. The Department may reject all bids if the Department does not consider the bids to be in accord with the appraised value as approved by the Department. The Department shall approve an appraised value for Class A residue property prior to disposition pursuant to this subdivision.
- (2) Other methods of disposition for residue property. –
 - a. Class A, Class B, or Class C residue property may be conveyed to a State agency, public institution, and other local governmental units by negotiated sale or exchange or may be donated provided its future use is for public purposes.
 - b. Class B residue property may be sold, in whole or in part, where feasible, by either negotiated sale or exchange for a residue property value that is approved by the Division Right-of-Way agent and the Right-of-Way Unit manager.
 - c. Class C residue property may be sold to an adjacent property owner, in whole or in part, where feasible, by either negotiated sale or

exchange for the residue property value that is approved by the Division Right-of-Way agent and the Right-of-Way Unit manager.

d. Class B and Class C residue property with an area of one acre or less and a residue property value of twenty-five thousand dollars (\$25,000) or less may be sold by negotiated sale or exchange with an adjoining owner. The Division Right-of-Way agent or their designee may negotiate with the adjoining owners concerning the disposal of each residue for a consideration that is approved by the Division Right-of-Way agent and the Right-of-Way Unit manager.

(3) Exchange with a public utility company. – Class B and Class C residue property may be used for the purpose of exchange with a public utility company in part or in full consideration for acquiring rights-of-way. The exchange shall be based on the residue property value and the fair market value of rights-of-way to be acquired.

(4) Exchange with a property owner. – Class B and Class C residue property may be used for the purpose of exchange with another property owner in part or full consideration for acquiring rights-of-way. The exchange shall be based on the residue property value and the fair market value of rights-of-way to be acquired.

(5) Sale to persons displaced by a transportation project. – Residue property may be sold by negotiated sale to a property owner displaced by a transportation project and shall be based upon the residue property value. Residue property sold pursuant to this subdivision shall not include any real property previously owned by a displaced property owner.

(g) Proceeds to State Highway Fund. – Notwithstanding G.S. 146-15 and G.S. 146-30, no service charge into the State Land Fund shall be deducted from or levied against the proceeds of any disposition of residue property pursuant to this section. Net proceeds received pursuant to disposition of residue property in accordance with this section, less any apportionment required by federal law or regulation regulating its use, shall be deposited in the State Highway Fund.

(h) Approvals Required. – All conveyances of residue property require Department and Board of Transportation approval. Conveyance of residue property with a residue property value of less than ten thousand dollars (\$10,000) shall not require the approval of the Governor and Council of State; otherwise Governor and Council of State approval is also required.

(i) Recordation of Conveyance. – The Department shall record all conveyances of residue property pursuant to this section in accordance with G.S. 47-27 and other applicable State law.

(j) Rule-Making Authority. – The Department shall also have the authority to adopt, amend, or repeal rules as it may deem necessary to carry out its duties under the provisions of this section.

(k) Reconveyance to Former Owner. – Nothing in this section shall preclude the reconveyance of condemned property to its former owner pursuant to G.S. 136-19.

(l) Report to Joint Legislative Transportation Oversight Committee. – No later than March 1, 2019, and by March 1 each year thereafter, the Department shall report to the Joint Legislative Transportation Oversight Committee on the classification and sale of residue properties pursuant to this section. At a minimum, this report shall include information on the following:

(1) The number and type of properties classified.

(2) The number and type of properties sold, including information about the manner of sale, the identity of the purchaser, and the average ratio of sale

price to residue property value of the properties sold. (2017-137, s. 2(a); 2017-212, s. 1.3.)